

RESOLUTION
DENYING
APPEAL NO. 2018-07

WHEREAS, David & Alex Woellert, 12007 Rich Road, Loveland, OH 45140, appellants, on May 3, 2018, filed Appeal No. 2018-07 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 143.4 of said Resolution as applied to the property at 12007 Rich Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on May 2, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the storage and habitation of an RV in the side yard; and

WHEREAS, said Zoning Inspector, on May 2, 2018, acting upon said application and the plats and plans submitted, refused to issue said Certificate, the reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, public hearings were scheduled for said appeal on June 4, 2018 and July 9, 2018, notice of such hearings were given by first class mail to parties of interest and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of said hearings in accordance with Section 303.15 of the Ohio Revised Code; and

WHEREAS, Section 41 et seq. of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "B" and "C" Residence District; and

WHEREAS, Section 143.4 provides, in relevant part, that in any Residence District, other than the "O" and "E" Residence Districts, placing of a boat, trailer, or mobile home shall be prohibited, except that outside the Flood Plain Area one (1) trailer or one (1) boat may be parked or stored in a garage or other accessory building or rear yard in any Residence District. No occupancy for human habitation shall be maintained or business conducted therein while such trailer or boat is so parked or stored; and

WHEREAS, according to testimony offered at the public hearing, the appellant is requesting a variance to allow the temporary storage and habitation of an RV that has been parked in the side yard of the existing home that is currently being renovated. Once the renovations have been completed the RV will be moved to the rear yard area to comply with the Zoning requirements; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the northwest corner of the intersection of Rich Road and Willow Drive; and

WHEREAS, according to further testimony offered at the public hearing, the appellants have been living in the RV since mid-March while their home is being renovated. They originally requested permission to live in the RV until the public hearing scheduled for June 4, 2018 but ran into problems and requested that the Board grant a use variance to allow them to stay in the RV until August 1, 2018. At that time, the Board continued the case for 30 days to allow time to complete the renovations and expressed reluctance to grant the requested use variance. However, the appellants claim they have encountered additional problems and need to stay in the RV until August 1, 2018; and

WHEREAS, according to further testimony offered at the public hearing, there have been no know instances where the Board of Appeals has allowed the habitation of an RV on a single family residential property and granting a variance may set a negative precedent for residents to move into RVs to complete renovation work on their homes in the future; and

WHEREAS, according to further testimony offered at the public hearing, the appellants did not meet the standards for "unnecessary hardship" as the request was for a use variance and other alternatives for habitation were available; and

WHEREAS, 184.6 empowers this Board to permit a variation in the yard requirements of any District where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to irregular shape of the lot, topographic or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare; and

WHEREAS Section 185 provides, in exercising the above mentioned powers, the Board may reverse or affirm, wholly, or partly, or may modify the order requirement, decision or determination

appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the Officer from whom the appeal is taken; and

WHEREAS, it is the consensus of this Board, after careful consideration of all the facts, testimony, and evidence submitted, that the literal enforcement of the strict application of Section 143.4 of the Zoning Resolution will not result in an unnecessary hardship to the appellant of the property in question; and

WHEREAS, the variation will seriously affect the adjoining property owners and the general welfare; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby deny the requested variance from the requirement of Section 143.4 of the Zoning Resolution in accordance with the authority granted in Section 184.6. Furthermore, the decision of the Zoning Inspector to deny the issuance of a zoning certificate for the reason that the application failed to comply with Section 143.4 of the Zoning Resolution is affirmed; and

BE IT FURTHER RESOLVED that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 9th day of JULY 2018.

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Horvath – ‘aye’, and Mr. Ruehlmann – ‘abstain’.

DENIED: JULY 9, 2018

Luanne C. Felter
Zoning Secretary

Ronald Ruehlmann, Board Chairperson